



Zoning Case No. C814-06-0106

C

RESTRICTIVE COVENANT

OWNER: Fairfield Town Lake/Zilker LP, a Texas limited partnership

ADDRESS: 2045 North Highway 360, Suite 250, Grand Prairie, Texas 75050

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 9.567 acre (416,730 square feet) tract of land, more or less, in the City of Austin, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property specified in that certain Traffic Impact Analysis (the "TIA") prepared by Scott Feldman of Alliance Transportation Group, dated February 2006, or as amended and approved by the Director of the Watershed Protection and Development Review Department, or its successor department, of the City of Austin. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated February 7, 2007. The TIA shall be kept on file at the Watershed Protection and Development Review Department, or its successor department, of the City of Austin.
2. At the time an application for approval of the site plan for the first phase of the development of the Property is submitted to the Watershed Protection and Development Review Department, or its successor, for development of the Property, or any portion of the Property, an Integrated Pest Management Plan (the "IPM Plan") shall be submitted to the Watershed Protection and Development Review Department, or its successor department, for review and approval. The IPM Plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this restrictive covenant.

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3. At the time an application for approval of the site plan is submitted to the Watershed Protection and Development Review Department, or its successor department, for development of any portion of the Property adjacent to Barton Springs Road, the Owner shall design streetscape improvements in full compliance with the City of Austin Great Streets design criteria as the criteria existed on the date of this restrictive covenant within the public right-of-way of Barton Springs Road immediately adjacent to the portion of the Property for which such site plan application is submitted. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department, or its successor department, of the City of Austin. The streetscape improvements shall be constructed and completed prior to the issuance of the final certificate of occupancy for the building to be constructed on the portion of the Property for which a site plan is approved and released by the City of Austin. The Urban Design Section, or its successor, shall inspect and approve the streetscape improvements prior to issuance of such certificate of occupancy.
4. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
5. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
6. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
7. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 12 day of February, 2007.

OWNER:

FAIRFIELD TOWN LAKE/ZILKER LP
a Texas limited partnership

By: FF Town Lake/Zilker LLC,
a Delaware limited liability company,
its sole General Partner

By: FF Properties, Inc.,
a Delaware corporation,
its sole Manager

By: Glenn D. Jones
Glenn D. Jones,
Vice President

APPROVED AS TO FORM:

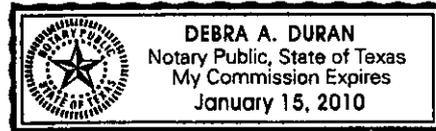
Debra A. Duran
Assistant City Attorney
City of Austin

THE STATE OF Texas §
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 12 day of February, 2007, by Glenn D. Jones, Vice President of FF Properties, Inc., a Delaware corporation, sole Manager of FF Town Lake/Zilker LLC, a Delaware limited liability company, sole General Partner of Fairfield Town Lake/Zilker LP, a Texas limited partnership, on behalf of the corporation, limited liability company, and the limited partnership.

Debra A. Duran
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal



9.567 Acres
Fairfield Town Lake/Zilker LP.
Travis County, Texas

FN 4121(EMD)
March 03, 2006
SAM, Inc. Job No. 25184-01

9.567 ACRES

DESCRIPTION OF A 9.567 (416,730 SQ. FT.) ACRE TRACT OF LAND, BEING ALL OF THAT CALLED TRACT 1 AND TRACT 2, AS DESCRIBED IN THE DEED TO FAIRFIELD TOWN LAKE/ZILKER LP., AS RECORDED IN DOCUMENT NO. 2005191745, OF THE OFFICIAL BUPLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 9.567 (416,739 SQ. FT.) TRACT, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½-inch iron rod found in the north right-of-way line of Barton Springs Road (100' Right-of-Way), same being the southwest corner of a called 0.575 acre tract of land, described in deed to Bathhaus Ltd. as recorded in Document No. 2001174688 of the Official Public Records of Travis County, Texas, for the most southerly southeast corner of said Tract 1, and the tract described herein;

THENCE, with the north right-of-way line of Barton Springs Road, S 76°21'17" W, a distance of 266.27 feet to an "X" cut in the concrete at the most southerly southwest corner of said Tract 1, and the southeast corner of that called Lot 5B of the Resubdivision of T.L. Subdivision No. 1 as per plat duly recorded in Document No. 200200297, of the Official Plat Records of Travis County, Texas, same being the southeast corner of a 30' Access Easement recorded in Volume 68, Page 52 of the Plat Records of Travis County, Texas;

THENCE with the common line of said Tract 1, and said Lot 5B and the east line of said 30' Access Easement, N 12°44'42" E, a distance of 11.11 feet to a cotton spindle found;

THENCE continuing with said common line, N 13°40'38" W, a distance of 244.01 feet to a cotton spindle found;

THENCE continuing with said common line, N 26°12'00" E, a distance of 228.38 feet to a cotton spindle found;

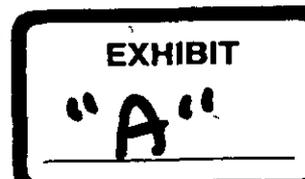
THENCE, with the common line of said Tract 1 and a called Lot 5A, of said Resubdivision, the following four (4) courses and distances:

1. N 63°46'01" W, a distance of 327.55 feet to a ½-inch iron rod found;
2. S 62°04'24" W, a distance of 22.51 feet to a concrete nail found at a point of non-tangent curve from which a pk nail with washer stamped "UDG" bears N 12°05'20" E, a distance of 1.44 feet;
3. with a non-tangent curve to the right a distance of 28.01 feet, through a central angle of 53°29'14" having a radius of 30.00 feet, and whose chord bears N 89°43'07" W, a distance of 27.00 feet to a concrete nail found from which a pk nail with washer stamped "UDG" bears N 22°19'24" E, a distance of 1.35 feet, and
4. N 63°48'50" W, a distance of 45.28 feet to a ½-inch iron rod found for the southwest corner of said Tract 1 and the northwest corner of said Lot 5A same being in the east right-of-way line of the frontage road of South First Street (variable width);

THENCE, with the common line of the frontage road of South First Street and said Tract 1, N 30°54'58" E, a distance of 150.66 feet to a ½-inch iron rod found for the common west corner of said Tract 1 and said Tract2;

THENCE leaving said common corner, with said east right-of-way line, same being the west line of said Tract 2, the following five (5) courses and distances:

1. N 30°55'24" E a distance of 90.79 feet to a ½-inch iron rod found,
2. N 18°03'56" E, a distance of 44.36 feet to a 1-inch iron pipe found at a point of non-tangent curve,



9.567 Acres
Fairfield Town Lake/Zilker LP.
Travis County, Texas

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3. with a non-tangent curve to the left a distance of 32.39 feet, through a central angle of 03°55'54" having a radius of 471.96 feet, and whose chord bears N 17°57'38" E, a distance of 32.38 feet to a 1-inch iron pipe found,
4. with a non-tangent curve to the left a distance of 23.25 feet, through a central angle of 07°36'20" having a radius of 175.17 feet, and whose chord bears N 10°52'46" E, a distance of 23.24 feet to a ½-inch iron rod with a "SAM, Inc." plastic cap set, and
5. N 30°54'48" E, a distance of 91.48 feet to a ½-inch iron rod found, for the northwest corner of said Tract 2 and the tract described herein;

THENCE with the north line of said Tract 1 and said Tract 2, S 63° 49' 09" E, a distance of 739.28 feet to a point, submerged in Town Lake for the northeast corner of said Tract 1 and the northwest corner of said 0.575 acre tract, same being the northeast corner of the tract described herein;

THENCE leaving the south line of Town Lake and with the common line of said Tract 1 and said 0.575 acre tract, the following three (3) courses and distances:

1. S 18°59'21" W, passing at a distance of 17.65 feet a ½" iron rod found and continuing a total distance of 254.16 feet to a ½-inch iron rod found,
2. S 70°56'01" W, a distance of 58.30 feet to a punch hole in concrete for the most westerly northwest corner of said 0.575 acre tract same being an inside ell corner, and

S 19°00'21" W, a distance of 400.15 feet to the **POINT OF BEGINNING**, and containing 9.567 (416,730 sq. ft.) acres of land, more or less.

Bearing Basis:

Cotton Spindles at an inside ell corner of said 9.567 acre tract and being the common line with said Lot 5A and Lot 5B. Called bearing and distance between these Cotton Spindles is N 26°12' E - 228.39 feet. Held called bearing of N 26°12'00" E and found actual distance to be 228.38 feet.

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

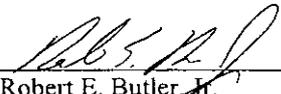
COUNTY OF TRAVIS

That I, Robert E. Butler, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during July, 2005 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 3rd day of March, 2006 A.D.

SURVEYING AND MAPPING, Inc.
5508 West Highway 290, Building B
Austin, Texas 78735




Robert E. Butler, Jr.
Registered Professional Land Surveyor
No. 5618 - State of Texas

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2007 Mar 05 03:53 PM 2007039132

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DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS
